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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,539	03/11/2004	Lewis Quinten Thompson	2793457	5889
7590	02/03/2005			
Lewis Q Thompson Apt # 11 1211 Donax Avenue Imperial Beach, CA 91932				EXAMINER WILSON, LEE D
				ART UNIT 3723 PAPER NUMBER

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Applicant No.</b>	<b>Applicant(s)</b>
	10/797,539	THOMPSON ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	LEE D WILSON	3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because the abstract is not a single paragraph. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

3. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. **The following claims are vague, indefinite, awkwardly and confusingly worded:**

- i. In claims 1-3, "1 hexagonal socket" is recited. Applicant should use "a hexagonal socket" instead.
- ii. In claim 1, it is awkward to use numbers "6" and "4" and "2" applicant should write these numbers as they are spelled instead of using the

number; However, these particular numbers are the only ones that the applicant has to write the rest are ok.

- iii. Claim 6 is awkward because "4" is not written out.
- iv. Claim 7 is awkward because "2" is not written out.
- v. Claim 8 is awkward because "4" is not written out.
- vi. Claim 9 is awkward because "2" is not written out.
- vii. "it" in claim 11 should be positively recited. Write out what the limitation is supposed to be.
- viii. Claim 12 is awkward because "2" is not written out.

4. The claim 11 is narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. **The claim(s) must be in one sentence form only.** Note the format of the claims in the patent(s) cited.

5. claims 11 is reciting function without limiting the structure of the tool. It appears that the applicant is attempting recite a method of using while framing the claim as an apparatus claim.

6. **The following claims lack proper antecedent basis:**

- b. In claim 1, line 3 "the top end" and claim 1 line 4 "the bottom end" lack antecedent basis because these terms have not been mentioned before.
- c. claim 11 recites "the underside" and "the housing" respectively in lines 2&4. These have not been mentioned before and lack antecedent basis.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5 , 10, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turtle (6112625) in view of Klomp (6332379) and/or Kupfer (5079978).

d. Turtle disclose tool having a hexagonal socket at the top (32) and a bottom hexagonal socket (34), an milled opening (31 and see fig,1) and the socket has four primary wall and two wall which are equal to each other and only a 1/3 in length .

e. Turtle does not disclose a perforations on the outer surface of a tool body.

f. Klomp discloses a tool having perforations on an outer surface of a tool body (figs.1&2) which allow the user to grasp the tool and/or Kupfer discloses a tool having perforations on an outer surface of a tool body (10) which allow the user to grasp the tool while having finish from at least 2.3 cm.

g. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Turtle device by providing a perforations on the outer surface of the tool as taught by Klomp and/or Kupfer which allow the user to grasp the tool while having finish from at least 2.3 cm.

h. In regard to claims 3-4, The modified Turtle discloses the claimed invention except for a socket depth of 12 millimeters for the top and bottom. It would have been an obvious matter of design choice to have made sockets with a depth of 12 millimeters for the top and bottom, since such a modification would have involved a mere change in the size of a component. A change in size generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

i. In regard to claim 5, The modified Turtle discloses the claimed invention except for the width of a milled opening being 17 millimeters. It would have been an obvious matter of design choice to have made an opening 17 millimeters in width, since such a modification would have involved a mere change in the size of a component. A change in size generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

9. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turtle (6112625) as applied to claims 1-5 , 10, and 11-13 above, and further in view of Gammon (6701807).

j. The modified Turtle is dicussed above.

k. The modified Turtle does not disclose the four hexagonal socket wall being 15 millilmeters and two hexagonal walls being 5 millimeters.

l. Gammon discloses a tool having two hexagonal socket wall with a width less than the four hexagonal socket walls which allows the tool to be shaped to remove fasteners.

m. It would have been an obvious matter of design choice to have modified the Turtle device with hexagonal walls with two wall having a width of 5 millimeters and four wall having a width of 15 millimeter made, since such a modification would have involved a mere change in the size of a component. A change in size generally recognized as being within the level of ordinary skill in the art and the differing width of walls taught by Gammon. In re Rose, 105 USPQ 237 (CCPA 1955).

***Allowable Subject Matter***

10. Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
11. The following is a statement of reasons for the indication of allowable subject matter: The distance between the perpendicular surfaces is not something that would be an obvious design choice because to modify this would be to change the present inventions being used in the rejection.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McKnight, Cotillon, and Farnan et al disclose an invention.

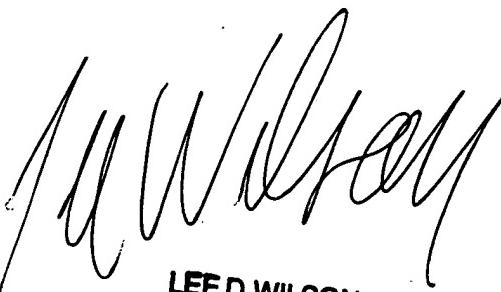
Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ldw

February 2, 2005



LEE D. WILSON  
PRIMARY EXAMINER